

## Senate Bill No. 1404

### CHAPTER 526

An act to add Part 8 (commencing with Section 36700) to Division 18 of the Streets and Highways Code, relating to multifamily improvement districts.

[Approved by Governor September 15, 2004. Filed  
with Secretary of State September 15, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1404, Soto. Multifamily improvement districts.

Existing law establishes the Property and Business Improvement District Law of 1994 to levy assessments on properties within a business improvement area within a city or county for the purpose of financing certain improvements.

This bill would enact the Multifamily Improvement District Law to provide until January 1, 2012, for the establishment of multifamily improvement districts within a city or county to levy assessments on residential rental properties within the district for the purpose of financing certain improvements and promoting certain activities beneficial to those properties.

*The people of the State of California do enact as follows:*

SECTION 1. Part 8 (commencing with Section 36700) is added to Division 18 of the Streets and Highways Code, to read:

#### PART 8. MULTIFAMILY IMPROVEMENT DISTRICTS

##### CHAPTER 1. GENERAL PROVISIONS

36700. This part shall be known and may be cited as the "Multifamily Improvement District Law."

36701. The Legislature finds and declares all of the following:

(a) Many businesses that operate multifamily residential properties and commercial properties within predominantly multifamily neighborhoods of California's communities are economically disadvantaged, are underutilized, and are unable to attract tenants because of inadequate facilities, services, and activities in those neighborhoods.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of the multifamily residential neighborhoods to create jobs, attract new businesses, and prevent the erosion of the multifamily residential neighborhoods.

(c) It is of particular local benefit to allow cities to fund business related improvements and activities through the levy of assessments upon the businesses or real property that benefit from those improvements.

(d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property or businesses are not taxes for the general benefit of a city, but are assessments for the improvements and activities that confer special benefits upon the real property or businesses for which the improvements and activities are provided.

36702. The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)) and the Property and Business Improvement District Law of 1994 (Part 7 (commencing with Section 36600)). This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36703. This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36704. (a) Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part.

(b) A multifamily improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

(c) Any provision in this part that conflicts with any other provision of law shall prevail over the other provision of law.

(d) This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect.

(e) Assessments levied under this part are not special taxes.

(f) Consistent with Article XIII C of the California Constitution, no assessment shall be imposed under this part on any property which



exceeds the reasonable cost of the proportional special benefit conferred on that property. Only special benefits are assessable, and a city shall separate the general benefits from the special benefits conferred on any property.

36705. As used in this part:

(a) “Activities” means, but is not limited to, all of the following:

(1) Providing security services supplemental to those normally provided by the city.

(2) Maintaining, including irrigating, landscaping.

(3) Providing sanitation, graffiti removal, street and sidewalk cleaning, and other public services supplemental to those normally provided by the city.

(4) Marketing, advertising, and promoting economic development, including the retention and recruitment of businesses and tenants.

(5) Providing managerial services for multifamily residential businesses.

(6) Providing building inspection and code enforcement services for multifamily residential businesses supplemental to those normally provided by the city.

(b) “Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties or businesses located within a multifamily improvement district.

(c) “Business” means all types of businesses, including, but not limited to, the operation of multifamily residential properties, retail stores, commercial properties, financial institutions, and professional offices.

(d) “City” means a city, county, city and county, or an agency or entity created pursuant to the Joint Exercise of Powers Act, Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county.

(e) “City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

(f) “Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to:

(1) Parking facilities.

(2) Benches, booths, kiosks, display cases, pedestrian shelters, signs, and entry monuments.

(3) Trash receptacles.



- (4) Street lighting.
- (5) Street decorations.
- (6) Parks.
- (7) Fountains.
- (8) Planting areas.
- (9) Closing, opening, widening, or narrowing of existing streets.
- (10) Facilities or equipment, or both, to enhance the security of persons and property within the district.
- (11) Ramps, sidewalks, plazas, and pedestrian malls.
- (12) Rehabilitation or removal of existing structures.
- (g) “Management district plan” or “plan” means a proposal as described in Section 36713.
- (h) “Multifamily improvement district,” or “district,” means a multifamily improvement district established pursuant to this part.
- (i) “Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose.
- (j) “Property” means real property situated within a multifamily improvement district.
- (k) “Property owner” or “owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. The city council has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this subdivision requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient.
- (l) “Tenant” means an occupant pursuant to a lease or a rental agreement of commercial space or a dwelling unit, other than an owner.

## CHAPTER 2. FORMATION

36710. (a) A multifamily improvement district may be established pursuant to this chapter.

(b) A city may not form a multifamily improvement district on or after January 1, 2012, unless a later statute which is enacted on or before January 1, 2012, deletes or extends that date.

36711. A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city.



A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36712. (a) Upon the submission of a written petition, signed by either more than two-thirds of the property owners or more than two-thirds of the business owners in the proposed district, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district.

(b) The petition of the property owners or the business owners required pursuant to subdivision (a) shall include all of the following:

(1) A map showing the general boundaries of the proposed district.

(2) A general description of the proposed activities and improvements to be carried out by the district.

(3) A general description of how the proposed district will be financed, and whether bonds are proposed to be issued.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or on businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) Order the preparation of a management district plan by a registered professional engineer certified by the state.

36713. The management district plan shall contain all of the following:

(a) A map of the proposed district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the proposed district, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. Under no circumstances shall the boundaries of a proposed district overlap with the boundaries of another existing district created pursuant to this part. Nothing in this part prohibits the boundaries of a district created pursuant to this part to overlap with other assessment districts.



(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.

(f) The proposed source or sources of financing including the proposed method and basis of levying the assessment in sufficient detail to allow each property owner or each business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan shall also state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding those time limitations, a district that finances improvements with bonds may levy assessments until the maximum maturity of those bonds, not to exceed 20 years. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list of the properties or the businesses to be assessed, including the assessor's parcel numbers for any properties to be assessed, and a statement of the method or upon benefited real property or businesses, in proportion to the benefit received by the property or the business, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.

(l) Any other item or matter required to be incorporated therein by the city council.

36714. (a) Except as provided in this section, the city council shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(b) However, notwithstanding the provisions of Section 53753 of the Government Code, if the assessment will be levied on businesses and not on property owners, the required notice shall be provided to the businesses that would be assessed, and only the assessment ballots submitted by the owners of those businesses shall be tabulated in determining whether a majority protest exists.



(c) Notwithstanding subdivision (e) of Section 53753 of the Government Code, the city may not establish the district or levy assessments if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed one-third of the total assessment ballots submitted, and not withdrawn, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

36715. At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed district that will exclude territory that will not benefit from the proposed improvements or activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36718.

36716. (a) If the city council, following the public hearing, decides to establish the proposed district, the city council shall adopt a resolution of formation that shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement about whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed one-third of the total assessment ballots submitted, and not withdrawn, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.





(5) A statement that the properties or businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements and activities to be provided in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district.

(7) A finding that the property or the businesses within the area of the district will be benefited by the improvements and activities funded by the assessments proposed to be levied.

(b) The adoption of the resolution of formation and recordation of the notice and map pursuant to Section 36718 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36717. If the city council, following the public hearing, desires to establish the proposed district, and the city council has not made changes pursuant to Section 36715, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in paragraphs (1) to (8), inclusive, of subdivision (a) of Section 36716, but need not contain information about the preliminary resolution if none has been adopted.

36718. Following the adoption of the resolution establishing the district pursuant to Section 36716 or 36717, the clerk of the city shall record a notice and an assessment diagram pursuant to Section 3114. If the assessment is levied on businesses, the text of the recorded notice shall be modified to reflect that the assessment will be levied on businesses, or specified categories of businesses, within the area of the district. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36719. The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose different assessments within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose different assessments or rates of assessment on each category of business, or on each category of business within each zone.





36720. The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements and activities.

36721. All provisions of this part applicable to the establishment, modification, or disestablishment of a district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a district.

36722. If a district expires due to the time limit set pursuant to subdivision (h) of Section 36713, a new management district plan may be created and a new district established pursuant to this part.

### CHAPTER 3. ASSESSMENTS

36730. The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution establishing the management district plan described in Section 36713. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part shall be charged interest and penalties.

36731. (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties used for single-family residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36732. The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36717. Any appeal from a final judgment



in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36733. The city council may execute baseline service contracts that would establish levels of city services that would continue after a has been formed.

36734. The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36735. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. Notice of the public hearing and the proposed modifications shall be published as provided in Section 36714. If the modification includes the levy of a new or increased assessment, the city council shall comply with Sections 36714 and 53753 of the Government Code.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36736. Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36718.

36737. (a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36716, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36716, set forth the estimated



cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 20 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

#### CHAPTER 4. GOVERNANCE

36740. Notwithstanding any other provision of this part, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all documents relating to activities of the district.

36741. (a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.



(5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36734 and 36735.

(d) The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36742. The management district plan may, but is not required to, state that an owners' association will provide the improvements or activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

36743. (a) Any district previously established whose term has expired, may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or the businesses in the prior district. If the renewed district does not include parcels or the businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

(c) Upon renewal, a district shall have a term not to exceed 10 years. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

36744. (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been a misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.



(2) During the operation of the district, there shall be a 30-day period each year in which assesseees may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners of real property or of businesses in the area who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall give notice of the public hearing on the proposed disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the district. The notice of the hearing on the proposed disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36745. (a) Upon the disestablishment of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

